

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Diana Owens,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1252
Parcel No. 080/01376-000-000

On May 7, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Diana Owens, requested the appeal be considered without hearing and submitted evidence in support of her petition. She is self-represented. Board of Review designated Assistant County Attorney, Ralph E. Marasco, Jr., as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Diana Owens, owner of property located at 1515 24th Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a two-story single-family dwelling having 1568 total square feet of living area, a 784 square-foot basement, a 160 square-foot patio, and 360 square foot of enclosed porch. The dwelling was built in 1914, and has a 4+00 quality grade. The property also has a detached 20 foot by 22 foot garage. The improvements are situated on a 0.231 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$95,900, representing \$8,500 in land value and \$87,400 in improvement value.

Owens protested to the Board of Review on the ground the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and there was an error in the assessment under section 441.37(1)(d). Owens reports the error is that the appraised value is higher than comparable properties in the area, essentially reiterating her equity argument. The Board of Review granted the protest stating the assessment was “changed because it was not equitable with similar property in the area.” The assessed value was changed to \$91,800, allocated \$8,500 to land value and \$83,300 to dwelling value.

Owens filed her appeal with this Board and claimed the property was assessed too high for its location and today’s market. She reported her property is in a high crime area, and full of run-down properties.

Cris Swaim of Swaim Appraisal Services, Inc., West Des Moines, completed an appraisal of the property on behalf of the Board of Review. Swaim measured the property and inspected the interior in April 2010, but valued it retrospectively as of January 1, 2009, for this appeal. According to the appraisal, the property had some repairs and remodeling in the past three years, however is still dated. Swaim reported the subject area is located in the heart of Des Moines in an area of older homes built prior to 1940. Homes values range from \$25,000 to \$150,000, and the area has a higher percentage of foreclosure and distressed properties than other city markets. Swaim found eleven 2008 sales priced between \$60,000 and \$110,000. The median sale price was \$68,000. Swaim used four comparable sales of similar age, style, size, and location. Adjustments were made for differences in exterior siding, gross living area, central air, garages, and for porches, decks, or fireplaces. Adjusted sale prices ranged from \$69,600 to \$79,200 with a median of approximately \$72,000. Indicated value using the sales approach was \$72,000. The cost and income approaches were considered but not developed in the appraisal. Swaim concluded that the subject property appeared to be assessed well over its market value.

Reviewing all the evidence, we find that substantial evidence supports Owens' contention that her property assessment was not equitable as compared with assessments of other like property in the taxing district as of the assessment date considering the comparable sales data provided in the Swaim appraisal. Further, we find Swaim's appraisal is the most credible evidence of the fair and equitable market value of the Owens' property as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

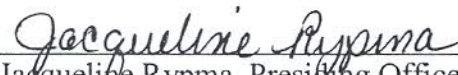
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

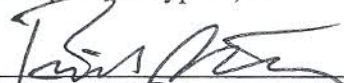
We find the Swaim's opinion of value supports the claim the assessment was not equitable as compared with assessments of other like property in the taxing district. The appraisal considered multiple sales in the area and we rely on it as the most credible evidence of the subject property's fair market value as of the assessment date.

Viewing the evidence as a whole, we determine that substantial evidence supports Owens' claim of inequitable assessment as of January 1, 2009. We, therefore, modify the Owens' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$72,000, representing \$8,500 in land value and \$63,500 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is modified to \$72,000, representing \$8,500 in land value and \$63,500 in dwelling value.

Dated this 20 day of May 2010.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-20</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>John Carver</i></u>